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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,931	09/29/2003	Andreas Ritter	5253-24	1633
27799	7590	07/12/2005	EXAMINER	
COHEN, PONTANI, LIEBERMAN & PAVANE 551 FIFTH AVENUE SUITE 1210 NEW YORK, NY 10176			THOMPSON, HUGH B	
		ART UNIT	PAPER NUMBER	
			3634	

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/673,931	RITTER, ANDREAS
	<b>Examiner</b> Hugh B. Thompson II	<b>Art Unit</b> 3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 September 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>2-9-04, 4-7-05</u>	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 7, the phrase “in the manner of a block and tackle” is unclear. It is suggested that the applicant simply recite the required movement/structure and not make comparisons to non-static conditions/movements.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 5, 9, 11-14, 17-19, and 21-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Wright et al #5,588,258. Wright et al disclose an actuating system for a vehicle 10 comprised of a vehicle attached base part (unnumbered), as recited in column 2, lines 30-32, to which is pivotally attached a rod/strut 20, 38 that moves along straight guide path 39, the rod also pivotally attached at another end to movable part 17 at 34, a driving device 22, as best seen

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in Figures 5 and 6, having cables 24, 25, both attached to respective cable drums 67, 68, a motor shaft 72 to which an electric motor (not illustrated) is attached, drive gears 73, 80, a rotational sensor 76 that detects the position of the movable part 17 and the motor relative to disk 75, an electromagnetic clutch 70, and force accumulators/fixing elements/piston-cylinders 15, 16, which can maintain the movable part/tailgate in a fully opened position, as recited in column 2, lines 17-26.

Claims 1 and 3-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Bittmann et al #4,903,435. Bittmann et al disclose, as recited in column 2, lines 57-59 and lines 66-68, and column 5, lines 29-55, an actuating system for a vehicle comprised of a base part 14, 14b, to which is pivotally attached at 18 to a push/pull rod 17, 17a, 17b, that moves along straight guide path 13, 15, 16, the rod also being pivotally attached at 19 to movable part 10, a driving device 12, as best seen in Figures 1, 4, 5, 7, and 8, having (Bowden) cables 22b, 23b, both attached to common cable drum 24, deflection pulley 56, a motor 25, and drive gears 26, 27.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright et al as applied to claims 1, 2, 4, 5, 9, 11-14, 17-19, and 21-25 in view of Lauderbach et al #6,557,924. Wright et al fail to disclose a potentiometer sensor. Lauderbach et al teach the utility

of an actuating system 17, 29, for a vehicle having a rotary potentiometer sensor 25 that detects movement of a movable part/hatch 3 and can be located on a pivot axis of 5 of the hatch, pivot points 9 or 11, or on push/pull rod assembly 13, 15, 19, to detect movement of the hatch relative to vehicle. Therefore, to one of ordinary skill in the art, it would have been obvious, as a matter of engineering design choice, to provide the system of Wright et al with a rotary potentiometer, as taught by Lauderbach et al, so as to provide a means for sensing the location of the hatch relative to the vehicle and provide a sensor that can be located in various positions to best determine angular positioning of the hatch.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wright et al as applied to claims 1, 2, 4, 5, 9, 11-14, 17-19, and 21-25, or Bittmann et al as applied to claims 1 and 3-10, in view of Andrei-Alexandru et al #4,478,004. Wright et al or Bittmann et al fail to disclose a self-locking electric motor. Andrei-Alexandru et al, as recited in column 5, lines 16-19, teach the utility of a self-locking electric motor 26 that when power is lost thereto, the motor will retain its position and thus maintain a static position with respect to the closure member 17. Therefore, to one of ordinary skill in the art, it would have been obvious, as a matter of engineering design choice, to provide the systems of Wright et al or Bittmann et al with a self-locking electric motor as taught by Andrei-Alexandru et al, so as to provide a condition wherein when power is lost thereto, the motor will retain its position and thus maintain a static position with respect to a closure member.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yuge #6,398,288, Wright et al #5,896,703, Fukazawa et al #6,646,398, Sakai et al #6,799,790, Junginger #6,068,327, Moore et al #5,448,856, Yokota #6,767,048, Johnk #6,293,050, Mintgen et al #6,600,285, and Nakagome #6,601,903 are cited to teach door actuating systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (571) 272-6837. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Hugh B. Thompson II  
Primary Examiner  
Art Unit 3634

July 8, 2005